

SB 2350

RELATING GENERAL EXCISE TAXATION

Clarifies that amounts received by a contractor of the patient-centered community care program for the costs or advancement to third party health care providers, pursuant to a contract with the United States Department of Veterans Affairs for the administration of the patient-centered community care program, are excluded from the state general excise tax.

PSM/HTH, WAM

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To: The Honorable Josh Green, Chair
and Members of the Senate Committee on Health

To: The Honorable Will Espero, Chair
and Members of the Senate Committee on Public Safety, Intergovernmental and
Military Affairs

Date: Wednesday, February 05, 2014
Time: 1:15 p.m.
Place: Conference Room 229, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. No. 2350, Relating to General Excise Taxation

The Department of Taxation (Department) appreciates the intent of S.B. 2350 to provide a general excise tax exemption to support health care administrators and provides the following comments for your consideration.

S.B. 2350 provides a General Excise Tax exemption to contractors that are part of the patient-centered community care program under Title 38, United States Code, Chapter 8153. The exemption would apply to amounts received by such a contractor for the costs or advancements made to third party health care providers pursuant to a contract with the United States.

The Department recommends the operative language of the exemption be clarified. The bill's purpose clause describes the exemption as for "costs or advancement to third party health care providers" while the bill's operative language refers to "costs or advancement to the contractor." The Department suggests the exemption be amended to read as follows:

- (18) Amounts received by a contractor of the patient-centered community care program that is established by the United States Department of Veteran Affairs under title 38 United States Code chapter 8153, as amended, for the actual costs or advancement to third party health care providers pursuant to a contract with the United States.

Thank you for the opportunity to provide comments.

TAXBILLSERVICE

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SUBJECT: GENERAL EXCISE, Exempt patient-centered community care

BILL NUMBER: SB 2350

INTRODUCED BY: Green, Chun Oakland, Ige and 3 Democrats

BRIEF SUMMARY: Amends HRS section 237-24 to provide that amounts received by a contractor of the patient-centered community care program that is established by the U.S. Department of Veterans Affairs under Title 38, U.S. Code chapter 8153, as amended, as costs or advancement to the contractor pursuant to a contract with the U.S., shall be exempt from the general excise tax.

EFFECTIVE DATE: July 1, 2014

STAFF COMMENTS: The TRICARE program was established by the U.S. Department of Defense (DOD) as the managed care component of the Military Health Care system to augment the health care services provided to DOD personnel at military treatment facilities. TRICARE contracts with third-party administrators (managed care support contractors) to establish and maintain networks of TRICARE-authorized civilian health care providers. These managed care support contractors make advances to health care providers for the services they provide to TRICARE beneficiaries and are reimbursed by the DOD for the amounts of such advances.

The legislature by Act 70, SLH 2009, clarified that amounts received by the managed care support coordinators as reimbursements from the DOD for advances they made on behalf of the DOD for TRICARE program purposes are not taxable under Hawaii's general excise tax law. Inasmuch as the amounts received by a contractor of the patient-centered community care program are reimbursements similar to those under the TRICARE program, the adoption of this measure would appear to be justified.

Digested 2/4/14

LATE TESTIMONY

**Testimony of
Gary M. Slovin / R. Brian Tsujimura/ Mihoko E. Ito
on behalf of
TriWest Healthcare Alliance**

DATE: February 3, 2014

TO: Senator Josh Green
Chair, Committee on Health

Senator Will Espero
Chair, Committee on Public Safety, Intergovernmental and Military Affairs

Submitted Via HTHTestimony@capitol.hawaii.gov

RE: **S.B. 2350 – Relating to General Excise Taxation**
Hearing Date: Wednesday, February 5, 2014 at 1:15 p.m.
Conference Room: 229

Dear Chair Green, Chair Espero, and Members of the Joint Committees,

I am testifying on behalf of TriWest Healthcare Alliance Inc. ("TriWest"), a Delaware corporation headquartered in Phoenix, Arizona. TriWest **supports** S.B. 2350.

You may recall that TriWest was the third-party administrator of the TRICARE program for many years. During the time that TriWest served as the third-party administrator of the program it developed a high-quality network of healthcare providers for the nation's active duty and retired uniform service members and their families. During that time, around the year 2009, TriWest approached the legislature for an exemption to the general excise tax ("GET") by amending Section 237 – 24 to add a new subsection (17) to clarify the application of the GET with respect to the TRICARE program. The legislature did adopt that exemption and the TRICARE program has been operating under that exemption since 2009. Last year, TriWest lost the TRICARE contract to a successor company but the TRICARE program continues to operate under that tax exemption.

That exemption provided that the excise tax would not apply to monies handled by TriWest under the TRICARE program to make payments to healthcare providers.

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As with the TRICARE program, TriWest will pay the general excise tax on the administrative fees that it receives for coordinating access to the services provided under the new program described below.

Recently, the Department of Veterans Affairs (“VA”), under the leadership of Secretary Eric Shinseki, announced a new program to give veterans greater access to quality healthcare. That new initiative is entitled Patient-Centered Community Care (“PCCC”). The VA in announcing this new program described it as an innovative solution to help the VA medical centers provide quality care to veterans efficiently. This program, which has been funded, provides VA medical centers with the ability to purchase care from local community providers for veterans when VA cannot readily provide care for various reasons such as limited capacity or geographic barriers. This will give eligible veterans access to inpatient specialty care, outpatient specialty care, mental health care, and limited emergency care services.

The program provides a regional contracting vehicle to enable the VA to work with local community healthcare providers to give veterans access to high quality care closer to home. It is well-known that our veterans are in great need of accessible quality care. This program is intended to help accomplish that goal.

Despite the fact that TriWest is no longer the TRICARE contractor, it is a company solely dedicated to serving the military and has continued such efforts here in Hawaii and elsewhere. When the VA went out for bid proposals for the new program to select the contractors, TriWest competed for this new program, and I am pleased to inform you that the VA has awarded three of six regional contracts to TriWest. As in the case of the TRICARE program, TriWest will be responsible for setting up medical provider networks in the regions assigned to it. This will include Hawaii. It is hoped that these networks will be fully established by the spring of this year.

Because this program operates similarly to the TRICARE program, TriWest will facilitate reimbursements from the federal government to providers of healthcare services provided to veterans. Therefore, the same issue that arose in the TRICARE program applies here. As was the case with respect to the TRICARE program, these reimbursement monies might conceivably be subject to the GET. Accordingly, the impact of this is that the excise tax would likely exceed by a significant margin the reimbursements TriWest receives from VA. Hence, as we did in the TRICARE program, we ask for your consideration by establishing the same kind of clarifying exemption as provided for the TRICARE program.

As in the case of the TRICARE program, we have met with the Department of Taxation and discussed this issue. The department stated its understanding and general support but, as in the case of TRICARE, did not feel it could issue a written opinion that the

excise tax would not apply. Accordingly, we have come to the legislature to clarify that the reimbursement amounts described above would not be subject to the general excise tax.

Consequently, the purpose of the bill is to make clear that the amounts received by TriWest from the U.S. government as reimbursements for payments made to clinicians and medical facilities providing care to veterans are to be excluded from the imposition of the general excise tax. This clarification will be made by amending Section 237-24 to add a new subsection 18. The requested language is set out in the bill.

Thank you very much for the opportunity to testify.